



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**

Public Records Request

Instructions for Submitting a Request

You may submit a public records request either with the online form located on our website at ndep.nv.gov or in writing using our Public Records Request Form.

Please direct your written request to:

*Nevada Division of Environmental Protection Records Request
Coordinator
Attn: Shanon Pascual
901 S. Stewart St., Suite 4001
Carson City, NV 89701*

We will contact you to let you know whether we have records related to your request. If we do have records, we will offer instructions on how you can view or obtain copies or electronic files.

For questions about public records, contact Shanon Pascual at 775-687-9304.



Nevada Department of
**CONSERVATION &
NATURAL RESOURCES**



NEVADA DIVISION OF
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PROTECTION**

Requests under 50 pages

Requests of no more than 50 pages are free. Requests of any size are free for governmental entities.

Requests over 50 pages and special documents

If your request includes maps, bound reports, or more than 50 pages, you must make arrangements with a local, approved copy center before records are released. This may involve creating an account, arranging for pickup, and paying for printing costs.

Copy Fee

\$ 0.05 per page Black and White (8 ½ x 11)

\$ 0.052 per page Black and White (8 ½ x 14)

\$ 0.10 per page Color (8 ½ x 11)

\$ 0.102 per page Color (8 ½ x 14)

Actual cost per Digital disk

NRS 239.052

Extraordinary Use Fee *

Up to \$ 0.50 per page

*NRS 239.055

Electronic records

Requests for records in an electronic format are free. To get electronic records, you must come to our office in person with a new, unopened flash drive.



Nevada Department of
**CONSERVATION &
NATURAL RESOURCES**

Streamlining Public Record Requests

NDEP Internal Procedure | 5/23/2019



It's the duty of public agencies to respond to requests for records in a timely and efficient manner. Our goal is to give you the tools and strategies you need to support this important public service both effectively and efficiently. This factsheet provides three tips and one example for streamlining, organizing, and maintaining documents that may be subject to public record requests.

Tip 1

Standardize email and document names

A standard naming convention for emails and files helps us gather and sort relevant information by subject and time, identify privileged or confidential content, and easily search documents that are not subject to records retention schedules. Use a naming convention that includes:

- A common name for a case or matter, such as "Northwest Academy"
- The date of the document (if not an email) such as "5.3.19"
- The subject of the document, such as "Ltr re Water System Inspection"
- Important information about the document such as:
 - "Deliberative" or "Attorney-Client" for any claimed privilege (**see Box 1**)
 - "Confidential" for any document certified as such under NRS 445A.665, 445B.570, 459.050, 459.3866, 459.555, 459.7056, and 459.846
 - "Draft" or "Notes," signaling that the document is not subject to retention schedules (**see Box 2**)

Tip 2

Limit email attachments

Email attachments account for a significant number of the total pages that we gather and review as part of public record requests. Often, a good number of these documents are drafts which are not official records and have little internal or public value at the time of the request (**see Box 2**). If these documents are periodically reviewed and destroyed, they may still live on in email attachments. To prevent this from occurring, please limit email attachments by hyperlinking to documents on our server in your email messages as much as possible rather than attaching documents to email.

To hyperlink a document in an email:

1. Click on the insert tab in the upper left corner of the email.
2. Click on the "hyperlink" button under the links tab.
3. Navigate to the folder or document that you wish to link to the email, and finally click "ok."

BOX 1

WHAT IS A PRIVILEGED DOCUMENT?

Attorney-Client Privilege: To fall under this privilege, documents and emails must have been made for seeking legal advice. This privilege does not apply to everyday administrative matters, such as scheduling meetings. Emails that are informational or do not seek legal advice from an attorney also do not fall under this privilege — even when an attorney is copied on an email.

Deliberative Process Privilege: This privilege doesn't always protect records from disclosure. In theory, protecting deliberation may encourage parties to express their view on an issue frankly. This may help agencies make better decisions without chilling open discussion. For example, this privilege may apply to records with personal opinions or recommendations that helped us pin down an official decision, position, or policy. We should always weigh our interest in protecting our deliberations against the interest of the public to disclose them.

Tip 3

Be mindful of email content and quantity

Many record requests seek NDEP's internal and external emails. It is important that we put our best foot forward in all emails to create and maintain a positive public perception of NDEP. Here are two tips for email correspondence:

- **Professionalism:** The emails we create for official business may be reviewed by the public under a records request. All emails related to NDEP's public business, whether external or internal, should be professional in content and tone. Take a moment to review each email for professionalism before hitting send.
- **Reducing Email Quantity:** Because most NDEP business is transacted by email, collecting emails consumes much of our time in responding to records requests. Try to reduce the number of email replies or forwards by:
 1. Communicating in person or over the phone.
 2. Increasing content within a single email rather than spreading it over several messages.

BOX 2

WHAT IS A PUBLIC RECORD?

"Public record" is not defined by statute but may be best understood as "any record that is prepared, used, or maintained by any state agency in the course of governing or performing a government function" (Public Records Manual, p. 6, 2016) or "information created or received by a state agency under authority of law, regulation, or other legal mandate or in connection with the transaction of public business. . ." (NAC 239.705(1)).

Are drafts and personal notes public records? Possibly, if they exist at the time of the request.

The Nevada Administrative Code gives guidance on what records are not "official" and are exempt from retention schedules:

"[P]ublished materials printed by a governmental printer, informal notes, unused blank forms except ballots, brochures, newsletters, magazines, catalogs, price lists, drafts, convenience copies, ad hoc reports, reference materials not relating to a specific project and any other documentation that does not serve as the record of an official action of a state agency" (NAC 239.705(2)).

Examples of documents that are not official records include:

- Drafts of emails, letters, agreements, FOAVs, NOAVs, orders, AOCs, etc.
- Notes from internal and external meetings that are not part of NDEP's official record

We can destroy such records when a new or final, "official" version is created or when they no longer have reference or administrative value. Periodically review draft documents on NDEP's server to determine whether they are still valuable references or have administrative value.

Non-official records that we keep may still be subject to production under a public record request. But this depends on whether the document was made for personal use (meeting notes taken for personal convenience and not distributed to other agency employees) or whether the document was distributed as part of NDEP's business (draft documents). The former is not a public record. The latter may be a public record unless subject to a claim of privilege or confidentiality (**see Box 1**).

Example of Streamlining Records

The screenshot illustrates the process of streamlining records through email communication and file organization. It is divided into two main sections, each with a numbered callout.

Top Section (Email Draft):

- 1.** The email header shows the subject line: "Public Record Employee Factsheet, deliberative".
- 2.** The email body contains a draft of a factsheet, with a callout pointing to the text: "Here's what I have so far for [the factsheet](#)".
- 3.** The email body also includes a callout pointing to the text: "I also left a few comments in the margins for you to consider. Please feel free to revise this further, and let me know if you want to chat in person about anything. I'll be at my desk all day."
- 4.** The email body includes a callout pointing to the text: "I tried to preserve the useful nuance you provide below, but let me know if any distinctions fell through the cracks — especially in the two supplemental boxes."

Bottom Section (File Explorer):

- 5.** The file explorer shows a folder named "Streamlining Public Record Requests" containing several draft documents. The files are named: "Public-Record-Employee-Factsheet_public-records_deliberative_draft-2.docx", "Public-Record-Employee-Factsheet_public-records_deliberative_draft-3.docx", "Public-Record-Employee-Factsheet_public-records_deliberative_draft-4 fjp.docx", "Public-Record-Employee-Factsheet_public-records_deliberative_draft-4.docx", and "Public-Record-Employee-Factsheet_public-records_deliberative_draft-5.docx".

Notes

1. The subject line of this email includes details from Tip 1, showing the subject of the email and that it's part of the deliberative process.
2. Rather than including an email attachment, this email includes a hyperlink to a file on the P: drive using Microsoft Word's hyperlink tool.
3. This draft factsheet is still being revised and reviewed. Its content will likely change in future drafts as more people weigh in. As a result, we could claim deliberative process privilege for the factsheet as NDEP staff are actively commenting and editing a document that will result in an official NDEP policy (see **Box 1**).
4. While polishing this factsheet, employees may seek clarification on particular tips and suggestions. It's better to have such conversations in person or over the phone instead of chatting back and forth over email.
5. This folder contains each revised draft of this factsheet. The name of each file contains the conventions from Tip 1. All of these drafts should be deleted once the final factsheet is approved since they're no longer useful to us.

Dealing with Public Record Requests

1. **Acknowledge receipt of a public record request within five (5) working days. If the request can be reasonably filled within the 5-day period, it should be. If not, choose a [date](#) that you will follow up with an estimated timeline and anticipated costs of fulfillment.**

"Dear name of requestor,

We received your public record request on Month/Day/Year and anticipate fulfilling your request on Month/Day/Year.

Best regards..."

2. **Respond by that [date](#) – even if it is to indicate more time needed to determine timeline, or to provide that information.**

3. **If there are no records:**

"Dear name of requestor,

After reviewing our files, we have no records responsive to your Month/Day/Year public record request. Please contact us if you have any questions."

4. **If there are records: (easily attachable)**

"Dear name of requestor,

I have attached documents responsive to your Month/Day/Year public record request. Please contact us if you have any questions..."

5. **If there are records: (by review or reproduction)**

"Dear name of requestor,

We have identified records that are responsive to your Month/Day/Year public record request. To make an appointment to view the files at our office, or to arrange for reproduction of the records, please contact NAME, at PHONE, or EMAIL..."

6. **If there are more than 50 pages:**

"Bureau of___ will provide up to 50 copies of unbound pages at no charge. Maps, bound reports, or copy requests over 50 pages must be sent to _____, a local approved file reproduction company in _____. Please contact NAME, at PHONE, or EMAIL for more information."

Notes:

1. **A copy of request (except for simple and straightforward requests) should be shared with Bureau Chief for their situational awareness.**
2. **Not all documents are public record:**

DAM Section 2704.0 - DEFINING PUBLIC RECORDS

The term “public record” is not defined in statute. For purposes of record retention schedules, the term “Official State Record” is defined generally in NRS 239.080. This term is more specifically defined in regulation by NAC 239.705:

“ 1. For the purposes of NRS 239.080, an “official state record” means information created or received by a state agency under authority of law, regulation or other legal mandate or in connection with the transaction of public business that is preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the state agency, including, without limitation, all papers, unpublished books, maps, photographs, machine readable materials including audio and audiovisual materials, or other documentary materials, regardless of physical form or characteristics.

2. The phrase does not include nonrecord materials. Nonrecord materials include, without limitation:

(a) Published books and pamphlets, books and pamphlets printed by a governmental printer, answer pads for a telephone or other informal notes, desk calendars, stenographers’ notebooks after the information contained therein has been transcribed, unused forms except ballots and as indicated in a retention schedule, brochures, newsletters, magazines, newspapers except those excerpts used as evidence of publication, scrapbooks, physical property, artifacts, library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, or stocks of publications and processed documents.

(b) Workpapers used to collect or compile data, or drafts developed from those workpapers, unless an appraisal conducted by the Division indicates that the workpapers or drafts have legal, fiscal, research or archival value.”

3. **Confidential information must be redacted:**

NAC 284.718 Confidential records. ([NRS 284.065](#), [284.155](#), [284.355](#), [284.407](#))

1. The following types of information, which are maintained by the Division of Human Resource Management or the personnel office of an agency, are confidential:

(a) Information relating to salaries paid in other than governmental employment which is furnished to the Division of Human Resource Management on the condition that the source remain confidential;

(b) Any document which is used by the Division of Human Resource Management or an agency in negotiations with employees or their representatives which has not been made public by mutual agreement;

(c) The rating and remarks concerning an applicant by the individual members of the board or assessors of a center for assessment;

(d) Any document which is used by the Division of Human Resource Management or an agency in the process of interviewing an applicant, including, without limitation, a document containing interview questions, evaluation tools used for rating applicants and any notes concerning an applicant that were taken by a person as part of the process of rating an applicant;

(e) Materials used in examinations, including suggested answers for oral examinations;

(f) Records and files maintained by an employee assistance program offered by the State of Nevada;

(g) Reports by employers, appointing authorities or law enforcement officials concerning the hiring, promotion or background of applicants, eligible persons or employees;

(h) The class title and agency of an employee whose name is excluded from the official roster, as provided in subsection 3 of [NAC 284.714](#), when an inquiry concerning the employee is received;

(i) Any information contained on a person's application or relating to his or her status as an eligible person; and

(j) Information in the file or record of employment of a current or former employee which relates to the employee's:

(1) Performance;

(2) Conduct, including any disciplinary actions taken against the employee;

(3) Usage or balance of his or her annual leave and sick leave;

(4) Race, ethnic identity or affiliation, sex, genetic information, disability or date of birth;

(5) Home telephone number; or

(6) Social security number.

2. If the employee has requested that his or her personal mailing address be listed as confidential, the employee's file must be so designated and list his or her business address.

3. The name of any beneficiary of an employee contained in the payroll document must not be released to anyone unless:

(a) The employee dies; or

(b) The employee signs a release.

4. Any records in the possession of the Committee on Catastrophic Leave created pursuant to [NRS 284.3627](#) that reveal the health, medical condition or disability of a current or former employee or a member of his or her immediate family are confidential.

5. Any notes, records, recordings or findings of an investigation conducted by the Division of Human Resource Management relating to sexual harassment or discrimination, or both, and any findings of such an investigation that are provided to an appointing authority are confidential.

6. Any notes, records, recordings, findings or other information obtained from an organizational climate study that directly relate to an employee's performance or conduct are confidential.

7. Any notes, records, recordings, findings or other information obtained from an internal study conducted by an agency that directly relate to an employee's performance or conduct are confidential.

4. **Not all documents need to be included. When in doubt, work through your Chief and Deputy Administrator to ask for DAG review.**

Documents that are deliberative are not public records. These are documents that show analysis while thinking through decisions, issues, pros and cons. Documents that are transitory are not public records. A transitory email or document is arranging for a meeting or arranging a car pool, there are caveats galore, so when in doubt, have DAG review.

5. **We are not required to create a record or document with summary of information, or convert to a format preferred by requester.**
6. **Attach a copy of original request in all emails – in case there are multiple requests.**
7. **In addition to requesting additional information to clarify requests, it is also appropriate to suggest a revision to the request to narrow the scope, providing essential/relevant files, as opposed to all and every record.**

***Example:** “I received your records request dated DAY/MONTH/YEAR”. The records you are requesting could include several thousand pages and weeks or months to identify and make available. Is it possible to revise your request to be more SPECIFIC or COVER FEWER YEARS?”*

8. **Subpoenas for Records are different than Nevada Open Records Law requests and additional guidance for subpoenas is being created.**
9. **The manual “ Nevada Public Records Act: A Manual for State Agencies” can be found at:**
http://nsla.libguides.com/ld.php?content_id=34967931

Reproduction Companies

Sierra Document Management

775-786-8224
3545 Airway Drive, #109
Reno, NV 89511
support@sdmnv.com

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Turn-around time approx. 1-2 days
Minimum fee may apply

Rick's AEC Reprographics

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1909 Prosperity St.
Reno, NV 89502

Call to set-up an account.
COD or Credit Card payment
Turn-around time approx. 1-2 days

Nevada Blue-Reno

775-827-4441

9738 S. Virginia St., Suite D

Reno, NV 89511

Must call to set-up an account.

Credit Card payment

Turn-around time approx. 5-7 days

Can copy Microfilm

Nevada Blue-Carson City

775-883-6011

280 Winnie Lane

Carson City, NV 89703

Must call to set-up an account.

Credit Card Payment

PUBLIC RECORDS REQUEST ROUTE SLIP

NDEP has received the attached request for information that is being forwarded to your bureau. A written response to the inquirer, whether or not you have information, is required with a copy forwarded to me in Administration. Emails are considered a written response.

Referred to: APC BCA MRR SDW SMM WPC WQP BFF BISC OFA

Date Referred: Nov 20, 2019 **Response to be sent by:** Nov 26, 2019

Requestor: Jane Doe

Subject of Request: Phase I

Forward From: Shanon Pascual

Comments: If the bureau does not have any records on file, it is the bureaus responsibility to still contact the requestor letting them know the bureau has no records on file.

Response sent by: Email Fax Letter